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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

UNITED STATES OF AMERICA,	)	No. CR-07-00776 CW
	)	
Plaintiff,	)	GOVERNMENT'S SENTENCING
	)	MEMORANDUM
v.	)	
	)	<b>Sentencing Date: July 29, 2008, 2:00 p.m.,</b>
RUDY VARVEL,	)	<b>The Honorable Claudia Wilken</b>
	)	
Defendant.	)	
	)	

The United States of America requests that Defendant Rudy Varvel be sentenced to 78 months imprisonment, the low end of the United States Sentencing Guidelines ("Guidelines") range, and three years of supervised release, consistent with the Plea Agreement and the recommendation of the United States Probation Office ("USPO"). Additionally, the United States requests that defendant be ordered to pay restitution in the amount of \$20,951.00 and a \$700 special assessment.

**INTRODUCTION**

Defendant pleaded guilty to five counts of bank robbery and two counts of attempted bank robbery following a series of bank robberies committed by defendant in 2006 throughout Alameda and Contra Costa counties and elsewhere. Defendant was apprehended in July 2007

when he attempted to commit two similar bank robberies of a bank he had successfully robbed in December 2006. The parties and the USPO agree that the appropriate sentence in this matter is 78 months imprisonment.

#### **FACTUAL BACKGROUND**

The Presentence Investigation Report (“PSR”) adequately sets forth the criminal activity. Consequently, the United States will not repeat the information in this section.

#### **ARGUMENT**

##### **I. PURSUANT TO THE SENTENCING GUIDELINES, DEFENDANT SHOULD BE SENTENCED TO 78 MONTHS IMPRISONMENT AND THREE YEARS OF SUPERVISED RELEASE.**

The parties agree with the Guidelines calculations set forth in the PSR resulting in a total offense level of 26 and a criminal history category of III. PSR ¶¶ 87, 96-98. Pursuant to the Plea Agreement in this matter, the United States recommends a sentence of 78 months imprisonment.

##### **II. APPLICATION OF THE FACTORS IN 18 U.S.C. § 3553(a) DEMONSTRATES THAT A SENTENCE OF 78 MONTHS IMPRISONMENT AND THREE YEARS OF SUPERVISED RELEASE IS REASONABLE.**

The Supreme Court recently noted that the “Guidelines . . . seek to embody the § 3553(a) considerations, both in principle and in practice.” Rita v. United States, 127 S. Ct. 2456, 2464 (2007). These factors or considerations include the need for the sentence to promote respect for the law, afford adequate deterrence, protect the public from further criminal conduct by the defendant, and provide the defendant with needed training and medical care. 18 U.S.C. § 3553(a). The sentence recommended by the parties achieves all of these sentencing goals. In addition to the bank robberies committed by defendant in the instant case, defendant was convicted of a misdemeanor burglary in 1988 and a felony attempted robbery involving the use of a pellet gun in 1991. PSR ¶¶ 92-93. A sentence of 78 months imprisonment will promote respect for the law, afford adequate deterrence, and protect the public from further criminal conduct by the defendant. Additionally, the PSR details defendant’s struggles with substance abuse and mental health issues. Defendant could therefore benefit from treatment for these issues in custody.

1 In light of the above, the sentence recommended by the parties and the USPO achieves  
2 the sentencing goals set forth in 18 U.S.C. § 3553(a).

3 **III. DEFENDANT SHOULD BE ORDERED TO PAY RESTITUTION IN THE**  
4 **AMOUNT OF \$20,951.00.**

5 Consistent with the Plea Agreement and the PSR, the United States requests that  
6 defendant be ordered to pay restitution in the amount of \$20,951.00. The PSR accurately sets for  
7 the restitution owed to the various bank victims. PSR ¶ 20.

8 **CONCLUSION**

9 For the foregoing reasons, the United States respectfully requests that the Court determine  
10 that defendant's Guidelines offense level is 26 and his criminal history category is III. The  
11 United States further respectfully requests that, taking into consideration the sentencing factors  
12 set forth in section 3553(a), the Court sentence defendant to the low-end of the applicable  
13 Guidelines range, namely, 78 months imprisonment, impose a three-year term of supervised  
14 release (under the terms and conditions recommended by the USPO), and order defendant to pay  
15 restitution in the amount of \$20,951.00 and a \$700 special assessment.

16 DATED: July 29, 2008

Respectfully submitted,

17 JOSEPH P. RUSSONIELLO  
18 United States Attorney

19 /s/  
20 JAMES C. MANN  
Assistant United States Attorney